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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/401,874	09/23/1999	FERDINAND ENGEL	00124/024001	5265

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BOSTON, MA 02109

EXAMINER

LE, DIEU MINH T

ART UNIT	PAPER NUMBER
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2184

DATE MAILED: 08/27/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/401,874

Applicant(s)

ENGEL, FERDINAND

Examiner

Dieu-Minh Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-16, 20-25, 29-33 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 6-9, 17-19, 26-28, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. This Office Action is in response to the amendment filed June 05, 2003 in application 09/401,874.
2. Claims 1-39 are again presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
4. Claims 1-5, 10-16, 20-25, 29-33, 36-39 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Carusone, Jr. et al. (US Patent 5,157,667 hereafter referred to as Carusone) in view of Reynolds et al. (US Patent 6,138,161 hereafter referred to as Reynolds).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 16, paragraphs 3-4 mailed December 03, 2002.

As per claims 1-5, 10-16, 20-25, 29-31, see the previous office action for the teaching of Carusone and Reynolds, as well as the reasons and motivation for combined.

(*) As per new claims 32-33:

Carusone substantially teaches:

- attempting communication with the target device involves sending a communication to that target device [col. 6, lines 40-45];
- attempting to communicate with the one or more neighbors of the target device involves sending a communication to to that one or more neighbors of the target device [abstract, col. 5, line 8-37 and col. 8, lines 61-68].

As per new claims 34-35, 36-37, and 38-39:

These claims encompass the same scope as claims 32-33 and are rejected for the reasons given in paragraph (*) above.

Applicant asserts that Carusone and Reynolds fail to teach or suggest the following:

- a. an attempt to communicate with its neighbors by sending a "ping" to the remote device; It does by consulting a network neighbor table which it had previously generated;
- b. "identifying the target device as failed device";

Examiner respectfully transverses Applicant's arguments as follows:

a. First, In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the feature upon which Applicant relies (i.e., an attempt to communicate with its neighbors **by sending a "ping" to the remote device; It does by consulting a network neighbor table which it had previously generated.**) is not recited in the rejected claims 1, 11, 12, 21 and 30 . Although the claims are interpreted in light of the specification, limitations from the specification is not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Second, Examiner would like to re-emphasize the Carusone's method and apparatus for performing fault isolation and failure analysis system having multi-processing units, multi-switches, multi-control units, and other communication devices, fig. 2. Carusone further addressed the failures (i.e., a target failure) identified, reported, isolated, and analysis for correction [col. 5, lines 29-64]. In addition, a fault message is generated and reported to the central location [col. 9, lines 41-55]. These capabilities do clearly address the Applicant's argument, which is an attempt to communicate with its neighbors.

Third, Examiner would like to bring Applicant's attention to the Carusone's method and apparatus for performing fault isolation and failure analysis system which performing the failure detection and isolation [col. 10, lines 55-64]. Carusone explicitly addressed 1) fault generation and fault analysis, 2) system configuration, 3) collect error report and isolate a fault in a distributed link, 4) error or failure message report, 5) isolating a fault to one of a multiplicity of units in a distributed communication system [col. 4, lines 23-38]. Therefore, it is obvious to an ordinary skill in the art to realize the Carusone's fault detection and isolation system does deal such capability which is "an attempt to communication" which fails as claimed by Applicant.

Fourth, besides Carusone's method and apparatus for performing fault isolation and failure analysis system, the Reynolds' method and system for eliminating communication failure and avoid the loss of data that may occur as a result of a network link failure [col. 1, lines 6-16]. Reynolds explicitly disclosed a communication connectivity among an initiator and target devices via a communication link [fig. 2].

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b. First, the combination of both Carusone and Reynolds do teach "identifying the target device as failed device" as argued by Applicant.

Carusone disclosed capabilities of:

- fault location (i.e., target fail device) [abstract];
- error detection and isolation via "nearest neighbor" means and transmit to the central location [col. 5, lines 19-28];

In addition, Reynolds addressed:

- target device break (i.e., target device failed) [col. 10, lines 17-32];
- target device changes due to communication break [col. 7, lines 58 through col. 8, lines 11].

Therefore, it is obvious to an ordinary skill in the art to realize both Carusone's method and apparatus for performing fault isolation and failure analysis system, the Reynolds' method and system for eliminating communication failure and avoid the loss of data that may occur as a result of a network link failure do deal with the failure target device in order to detect and isolate failure for system operation uninterruptedly.

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Second, Carusone substantially teaches the invention.

Carusone teaches:

- a method of identifying a failed device in a network [abstract, fig. 1, col. 1, lines 10-14];
- attempting communication with a device [col. 6, lines 40-45];
- determining if a device has an active neighbor if attempt to communication with failed device [abstract, col. 5, line 8-37 and col. 8, lines 61-68];
- identifying the device as a failed device if the device has an active neighbor [col. 6, lines 11-25 and col. 9, lines 8-40].

Carusone does not explicitly teach:

- a device as a target device.

However, Carusone does disclose capability of:

- a central service processor (i.e., target device) within a networking switching environment [col. 9, lines 33-64];
- central reporting location for linking networking devices or units [col. 16, lines 60-67].

In addition, Reynolds discloses capabilities of:

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- communication network comprising router as target device
[abstract, col. 4, lines 45-62];
- communication between the target device and the initiator
via a network to eliminating the loss of data or failure
[col. 4, lines 35-44].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to realize the Carusone's method and apparatus for performing fault isolation and failure analysis in a switching networking environment having capabilities of neighboring devices data analysis, and devices failure detection, more specifically, central service processor, as being the target device within a network as claimed by Applicant. This is because the Carusone's device failure detection, isolation, and analysis within a networking system would have included such target device (i.e., central service processor) since the target device or central service processor is used as a base target or element to engineering and determining the cause of network failure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (703) 305-9408. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel, can be reached on (703)305-9713. The fax phone number for this Group is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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Any response to this final action should be mailed to:

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Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7238, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

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communications, please label "PROPOSED" or
"DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



**DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2184**

DML
8/22/03